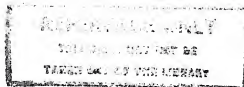


Introduction



1. The Architects Registration Acts, which were drafted more than 60 years ago, have been an important element in the regulation of architects but are now out of date. The Acts focus essentially on restricting the use of the title architect, and are not concerned explicitly with providing for those who depend on the services of architects, either as clients or employers.
2. Many of the detailed requirements relating to the procedures and composition of the Architects Registration Council of the United Kingdom (ARCUK), to the handling of disciplinary cases, and to the protection of the title of architect, are cumbersome and contain loopholes.
3. ARCUK has for some time been concerned about these shortcomings in the legislation, and in response to a request from the chairman of ARCUK to Ministers at the Department of the Environment (DOE), the Government has decided that the time is now ripe to re-examine the current system of registration in view of the great changes which have taken place both in society at large and in the construction industry itself since the 1930s.
4. The review will accordingly examine the effectiveness of, and the continued justification for, the statutory registration of architects under the Acts and will consider options for reform. It will be conducted by an independent assessor, Mr John Warne. Mr Warne's terms of reference and a short biographical note are at Annex A.
5. In this 'issues paper' the DOE sets out the principal issues on which it suggests the review might focus. Interested parties are invited to submit their observations on the paper and on any other relevant matters to the DOE at the address given in paragraph 20 below. Mr Warne will consider all written comments and take any further evidence he considers appropriate before submitting a report with recommendations to Ministers.

Statutory Framework

6. The Acts of 1931 and 1938 were the culmination of a long public debate on the registration of architects which had begun some fifty years before. The 1931 Act introduced voluntary registration by protecting the title 'registered architect'. It also provided for the establishment of ARCUK, its constitution and procedures. The 1938 Act gave full statutory protection of the title 'architect'. The two Acts form the basis of the present system of registration, and have been amended little since. The Architects Registration (Amendment) Act 1969 dealt with financial provisions relating to the provision of grants to students and research awards. Following an amendment to the Acts in 1987, ARCUK has also acted as the UK 'competent authority' for the purposes of the 1985 EC Architects Directive (see paragraph 11 below).
7. The intention of the Acts is to safeguard the public interest and the interests of the employers and clients of architects and all who can be termed consumers of architectural services by regulating the use of the title 'architect' in the course of work. Only a person whose name is on the statutory Register of Architects may legally 'practise or carry on business under any name, style or title containing the word Architect'. The Acts are confined to the protection of the use of title; they do not regulate the provision of architectural services in any wider sense. Thus, it is open to an unregistered person to provide such services; he or she would commit an offence under the Acts only if in doing so they described themselves as an architect.



8. ARCUK describes its main functions under the Acts as follows:
- a. to maintain a register of persons entitled to practise as architects;
 - b. the recognition of examinations qualifying for registration through the Board of Architectural Education;
 - c. the provision of scholarships and maintenance grants for students in architecture; the support and furtherance of education and research in architecture. In 1990-91, 64 students were assisted from 174 applicants, and there were 8 research awards from 55 applications;
 - d. the discipline of the profession. On average, 40 complaints are received each year. Under Section 7 of the Act, the Council may remove a person's name from the register on criminal conviction, or if the person is found guilty of 'conduct disgraceful to him in his capacity as an architect'. Each year an average of 3 architects are removed from the Register (and are subsequently reinstated at the end of the removal period), and a further 2 are dealt with by the Council by means of a warning; and
 - e. the institution of legal proceedings under the 1938 Act against persons unlawfully calling themselves architects. In 1991-92, 5 people were prosecuted and convicted for unlawfully using the controlled title. Penalties range from £150 to £1,000. Formal warnings were given to 43 people.

Annex B reproduces ARCUK's standard leaflet describing its functions. Additional background information is available from ARCUK. The consolidated text of the Acts is available from HMSO in the 'Statutes in Force' series.

9. ARCUK's membership is laid down in the First Schedule to the Act. Details of the composition of the Council in 1991-92 are given in Annex C. ARCUK has a staff of 15 and an annual budget of approximately £1 million. Its income comes entirely from the proceeds of the annual registration fee, increased in 1991 from £19 to its current level of £30 a year.

10. The Board of Architectural Education (BAE) is currently composed of 84 members nominated by the schools of architecture, the ARCUK Council and certain other organisations listed in the 1931 Act. The BAE makes recommendations to the Council concerning examinations. It participates in Visiting Boards to schools applying for the recognition or the continued recognition of their examinations. The BAE is also concerned with the administration of the ARCUK Education Fund, and has established an Awards Panel.

Role of ARCUK in EC matters

11. As mentioned in paragraph 6 above, ARCUK acts as the UK's 'competent authority' for the purposes of the EC Architects Directive (85/384/EEC *et seq.*). ARCUK is responsible for assessing applications by architects qualified in other member states wishing to practise under the title architect in the UK and to register those conforming with the provisions of the Directive. ARCUK also advises the DOE on various associated matters, for example it provides statistics on the numbers of EC nationals registered in the UK under the Directive. There were 68 architects registered in 1990-91 under these provisions.

Statutory versus voluntary regulation

12. Government policy in general favours self-regulation of the professions, trades and other occupational groups. Statutory registration is considered appropriate only where there are clear health and safety or environmental protection grounds. The Government is also concerned that any regulatory arrangements, whether statutory or voluntary, should not act as an unnecessary burden on business or restriction on competition.

13. Architects are regulated by statute in the UK in common with certain other professions, such as solicitors and medical practitioners. However, architects are the only profession within the construction industry to be so regulated. The other construction professions - engineers (civil, structural and building services); surveyors (building and quantity); and builders - are self-regulated through their chartered professional institutions. Membership is not compulsory in order to practise in these professions, nor to use the title of 'engineer' or 'surveyor', but clients would normally expect practitioners to be members of an appropriate institution. Anyone using the title 'chartered engineer', 'chartered surveyor' or 'chartered builder' could be open to prosecution under trade description law, or possibly the Theft Act if the deception were part of some larger fraud.

14. In addition to the statutory registration requirements, the architectural profession also has a tradition of self-regulation through the Royal Institute of British Architects (RIBA), the Royal Incorporation of Architects in Scotland (RIAS) and the Royal Society of Ulster Architects (RSUA). Of the 29,052 registered architects based in the UK on 1 January 1992, 21,967 are members of the RIBA, RIAS or RSUA, (thus entitling them to describe themselves as 'chartered architects').

15. The following justification for the retention of statutory regulation of architects has been offered:

- a. under traditional contract forms, the architect has responsibility for the management of the contract and the co-ordination of other specialists in the design and construction process. The purpose of registration is to give protection to the public who may rely on the skills implied by the use of the title architect. It serves as a means of distinguishing those who have acquired a known level of competence in the practice of architecture through education, practical experience and examination from the unqualified;
- b. architects are expected to exercise æsthetic and technical judgment, understand finance and employ creative and managerial skills. They carry a heavy financial and technical responsibility for their clients and need to be properly trained to do so;
- c. the function of protecting the consumer, investigating complaints and enforcing standards of conduct should be performed by a statutory authority and thus be kept independent of the function of representing the interests of a particular professional group;
- d. statutory registration of architects is accepted in many countries, including most, but not all, EC member states.

Anomalies in the Acts

16. Based on their long experience of administering the Acts, ARCUK have identified several issues which cause difficulty in their operation. Notable amongst these issues are:

- a. the large size of the Council;
- b. the lack of a proper balance on the Council among the profession, the wider construction industry, the interests of the public and consumers of architectural services;
- c. anomalies in the provisions for the protection of title, for example they do not prevent the use of such titles as 'Arkitect' or more commonly 'Architectural Consultant';
- d. the slow and cumbersome disciplinary procedures, for example the requirement for the full Council to confirm all decisions of the Disciplinary Committee, and the rigid and limited range of sanctions available; and
- e. the lack of control on re-entry to the register of persons whose registration may have lapsed for extended periods of time.

17. They have also identified a number of areas not currently dealt with in the Acts, where registration requirements might be strengthened. These include:

- a. continuing professional development;
- b. professional competence;
- c. the monitoring of ethical standards;
- d. registration of practices, as distinct from individuals; and
- e. professional indemnity insurance.

18. A further issue is the future rôle and composition of the Board of Architectural Education, whatever the outcome of the review as regards ARCUK.

Issues for the Review

19. The principal issues for the review are whether it is desirable to continue to have a system of statutory registration of architects; and, if so, what changes should be made to make the current system more effective. Observations are invited on these and also on the matters identified in paragraphs 16 to 18, and on such other issues as may be relevant to the regulation of architects in the public interest.

20. The Department would be grateful for written observations on the issues described and for any other views on the reform of the Architects Registration Acts. These should arrive at the Department by 30 June 1992 and be addressed to:

Mr R A Segall
Department of the Environment
Room P1/123
2 Marsham Street
London SW1P 3EB

Responses to this consultation paper may be made public. If you want your response to remain confidential to the Department, you should say so explicitly. All responses may be taken into account for statistical analyses.

Review of the Architects (Registration) Acts 1931-69

Terms of Reference

'To examine the effectiveness of, and continued justification for, the statutory registration of architects under the Architects (Registration) Acts 1931-1969; to examine options for reform; and to make recommendations.

The review should bear in mind the following general considerations:

- i. the need to ensure health and safety, and protection of the environment;
- ii. the need to safeguard the interests of the consumer of architectural services;
- iii. the importance of fair competition amongst suppliers of professional services;
- iv. the importance of maintaining professional standards;
- v. the mutual recognition of architectural qualifications between the UK and other countries, in particular the Member States of the EC; and
- vi. current developments in professional education in the construction industry.'

Biographical details - Mr John Warne CB

Born 4 December 1926. Educated Truro School and University of London.

Career: University Lecturer 1951-53; Civil Service Commission 1954; Assistant Commissioner and Principal 1958; Board of Trade (later Department of Trade and Industry) Principal 1962; Assistant Secretary 1967; Under Secretary 1972; Director for Scotland 1972-75; Personnel Division 1975-77; Industrial and Commercial Policy Division 1977-79; Deputy Secretary, Deputy Director-General, Office of Fair Trading 1979-82; Secretary and Chief Executive of The Institute of Chartered Accountants in England and Wales 1983-90.

1985-88 Member of the Marre Committee on the Future of Legal Services in England and Wales.



The Functions of the Architects Registration Council of the United Kingdom

This leaflet sets out the main functions of the Architects Registration Council. In the United Kingdom overall control of professional qualifications and conduct of architects has been delegated by Parliament to a statutory body entitled the Architects Registration Council of the United Kingdom.

The legal mechanism by which Parliament has empowered ARCUK to exercise its control is by means of protecting the title 'Architect'. The use of this title in the course of work is denied to anyone whose name is not on the Register of Architects (subject to technical exceptions). Thus, any member of the public dealing with an architect will be dealing with a person who has at least met a required standard of professional training, experience and behaviour.

ARCUK was established under the Architects (Registration) Act 1931 and its membership was laid down in the First Schedule of the Act. ARCUK's functions are as follows:

(1) To maintain a register of persons entitled to practise as architects and for purposes connected therewith

The 1931 Act set up a statutory committee entitled the Admission Committee, whose duty it is to consider every application for registration and to report thereon to the Council as to whether or not the applicant is, in the opinion of the Committee, qualified for registration (Section 5(3) of the 1931 Act). Section 6(1) names the qualifications for registration as follows:

- (a) that he is an architect member of the Royal Academy or of the Royal Scottish Academy; or
- (b) Rescinded
- (c) that he has passed any examination in architecture which is for the time being recognised by the Council; or
- (d) that he possesses the prescribed qualifications.

A memorandum has been prepared to assist persons proposing to apply for registration and this sets out the qualifications prescribed by the Council under the powers given to it by Section 6(1)(d) above and lists the examinations that have been recognised by the Council under Section 6(1)(c).

To assist the Committee to arrive at a recommendation in the case of persons applying who have not passed a recognised examination (Council Regulation 27) but one that may be deemed to be equivalent in standard and scope a special Panel has been set up consisting of twenty-six persons with

knowledge of foreign architectural qualifications. Thirteen of these persons are members of the Admission Committee and thirteen are nominated by the Board of Architectural Education.

Since the Council meets quarterly the Admission Committee also meets at the same intervals before each Council meeting and its meetings in turn are preceded by meetings of the Advisory Panel. Thus the Panel make recommendations to the Admission Committee and the Admission Committee recommend to the Council.

Admission Committee members are guided by the three Acts of Parliament under which the Council operates, in particular Sections 5(1)(b) and (3) and Section 6 of the 1931 Act, and its 3rd Schedule which lays down the constitution of the Committee.

(2) The recognition of examinations qualifying for registration

The 1931 Act set up another statutory body—the Board of Architectural Education (BAE)—to make recommendations to the Council concerning examinations. Section 5(1)(a) and 2nd Schedule (constituting the Board), Section 5(2)(a) and (b) Section 6(3) and 6(4) (recognition of examinations and holding of examinations in architecture) are relevant sections of the Act.

The Board normally meets twice a year; but preliminary consideration of examination recognition is done by the General Purposes Committee of the BAE, which also meets twice a year—three or four weeks before the Board meets—to enable its report to be circulated to the BAE members in advance of the latter's meeting. The Board in turn reports to the Council in accordance with the provisions of the Act. Council Regulations 23, 24, 25, 26 and 27 are all relevant to BAE matters.

The General Purposes Committee of the Board has as its main functions to look at proposals in greater detail than is possible by the Board as a whole, or to have matters referred to it by the Board for more detailed consideration.

The Committee's membership is designed to give a cross section of the profession including teachers and practitioners drawn from the architectural constituent bodies of ARCUK. The membership is proposed formally at the first meeting of the Board of the session.

ARCUK participates in Visiting Boards to schools applying for the recognition or the continued recognition of their examinations.

(3) The provision of scholarships and maintenance grants for students in architecture; the support and furtherance of education and research in architecture

The Board is concerned in the administration on the ARCUK Education Fund that was set up under the Architects' Registration (Amendment) Act of 1969. The Board has established an Awards Panel with the following functions:

- (1) to consider applications for maintenance grants from needy students at Schools of Architecture on recognised courses leading to registration, and to make recommendations to the Council on the award of such grants;
- (2) to consider applications for research awards and to recommend to the Board to whom such awards should be given;
- (3) to monitor developments in the field of Continuing Education (Continuing Professional Development).

(4) The discipline of the profession

Two committees are concerned with discipline.

- (a) The Professional Purposes Committee is a committee of the Council set up under Council Regulation 14. It consists of fifteen members. This Committee keeps under review the document of Conduct and Discipline containing the Standard of Conduct; advises architects concerning professional conduct; and considers all allegations against architects short of allegations of disgraceful conduct.
- (b) The Discipline Committee, a statutory committee set up under Section 7 of the 1931 Act which sets out its constitution (8 members: 2 members appointed by the President of the Law Society, 2 members appointed by the Secretary of State for the Environment and 4 registered persons appointed by Council). The Council's Disciplinary Regulations set out the procedure to be followed if an allegation is made that an architect has been guilty of conduct disgraceful to him in his capacity as an architect. These Regulations lay down that any application to the Council to require an architect to answer allegations that he has been guilty of conduct disgraceful to him in his capacity as an architect shall be accompanied by an affidavit stating the facts on which the application is made.

The Council, if it is of the opinion that a *prima facie* case has been made out against the architect, and that, if proved, it may wish to remove the architect's name from the Register, will remit the case to the Discipline Committee; it is however open to it, if the Council is of the opinion that, even if the case against the architect is proved, the conduct is not so disgraceful as to merit removal of the name from the Register, to remit the case to the Professional Purposes Committee instead of to the Discipline Committee (see para. (a) above).

When a complaint is made by affidavit it must be considered by the Council itself on the affidavit, and the Professional Purposes Committee should make no formal report to the Council although there is no objection to the Council obtaining from the Committee the information with regard to previous decisions of the Committee on matters of professional conduct or information with regard to previous decisions of the Discipline Committee on cases which have come before it.

The Professional Purposes Committee, in investigating a complaint made otherwise than by affidavit, may make such inquiry as they think fit, and may ask the architect against whom a complaint is made for an explanation, provided that they warn him (i) that if as a result of the investigation of the Professional Purposes Committee a complaint of 'disgraceful conduct' under the Disciplinary Regulations should be made, his reply or explanations may be used in evidence and (ii) that he need not give any reply or explanation unless he desires to do so.

If upon investigation it appears to the Professional Purposes Committee that a complaint is likely to involve conduct amounting to 'disgraceful conduct' the Professional Purposes Committee must cease their investigations and instruct the Registrar (i) either to invite the complainant to file an affidavit to the Council setting out the facts of the complaint, or (ii) to continue the investigation himself, or through the Complainant Solicitor or other authorised official of the Council with a view to the preparation of an affidavit.

Appendix II of the Council's Regulations lays down the Rules of Procedure on complaints of unprofessional conduct.



With a view to avoiding duplication and to keeping down costs both for ARCUK and the architectural constituent bodies, normally a complaint against an architect that does not appear to be prima facie disgraceful conduct is referred to the architectural constituent body of which the architect may be a member, for disciplinary action. They, in turn, pass to ARCUK any complaint against a member which is prima facie disgraceful conduct. It will be appreciated that ARCUK's only real sanction is removal of a name from the Register or reprimand, if an architect has been found guilty of disgraceful conduct; whereas the architectural constituent bodies may expel from their own membership, suspend or publish a reprimand for conduct that is unbecoming a member but not disgraceful.

(5) And the institution of legal proceedings under the Architects (Registration) Act 1938 against person unlawfully calling themselves architects

The Council is empowered by the 1938 Act to prosecute unregistered persons who contravene Section 1 of the Architects (Registration) Act 1938 which reads as follows:

“(1) Subject to the provisions of this Act, a person shall not practise or carry on business under any name, style or title containing the word ‘Architect’ unless he is a person registered under the principal Act: provided that nothing in this section shall affect—

(a) the use of the designation ‘Naval architect’, ‘Landscape architect’ or ‘Golf-course architect’ or

(b) the validity of any building contract in customary form;”

The decision whether or not to prosecute is taken by the Professional Purposes Committee and is generally dependant on the gravity of the offence. Prosecutions have also been brought under the Trade Descriptions Act 1968. In minor cases, the Registrar is instructed to warn offenders.

(6) Finance

The Council's finances are looked after by the Finance and General Purposes Committee, which is a Committee of the Council set up under Regulation 10. Its membership consists of 15 persons and acts as “house-keeper” as well as keeping the books and advises the Council on matters affecting the premises and staff, printing of the Register, Conduct and Discipline, Regulations etc., the payment of travelling expenses; on the amount of the retention fee, and other fees; the proportion of fees to be made available to the Education Fund; the buying and selling of investments; and any other matter which does not fall reasonably within the realm of any of the other committees or Panels of the Council or BAE.

(7) General

The Chairman and Vice Chairman of Council, BAE, Committees, etc., are elected by the members of each such body at the first meeting of each session. Sessions start each March.

Registrar: David W. Smart

Architects Registration Council of the United Kingdom
73 Hallam Street, London W1N 6EE Tel: 071-580 5861

Composition of ARCUK Council 1991-92

NOMINATING AUTHORITY	NUMBER OF MEMBERS
Royal Institute of British Architects	44
Incorporated Association of Architects & Surveyors	1
Architects & Surveyors Institute	1
Architectural Association	2
STAMP Section of UCATT	1
Council of Provincial Associations	1
Unattached Architects	14
Royal Society of Ulster Architects	1
Secretary of State for Education & Science	1
Secretary of State for the Environment	2
Secretary of State for Scotland	1
Secretary of State for Northern Ireland	1
Royal Institute of Chartered Surveyors	1
Institution of Structural Engineers	1
Society of Engineers	1
Chartered Institute of Building	1
Building Employers Confederation	1